

Docket No.: 616562000800
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Staffan SODERLUND

Application No.: 10/596,862

Confirmation No.: 1474

Filed: (Intl.) November 29, 2004

Art Unit: 3714

For: METHOD FOR PLAYING GAMES USING
BRAIN WAVES

Examiner: S. H. Lim

PETITION TO WITHDRAW ABANDONMENT UNDER CFR § 1.181(a)

MS Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby requests withdrawal of the holding of abandonment, noticed on October 19, 2010. Applicant respectfully asserts that Applicant never received the Notice of Allowance mailed July 2, 2010, or the Notice of Abandonment mailed October 19, 2010, both of which were mailed to the address of the previous practitioner of record, despite the filing of a Power of Attorney with a request to change the correspondence address.

In support of this petition, Applicant provides the following statement of facts to establish nonreceipt of the Notice of Allowance mailed July 2, 2010.

STATEMENT OF FACTS

1. Applicant submitted, on May 11, 2009, a Power of Attorney or Revocation of Power of Attorney and Change of Correspondence Address (the “Change of Address Form”). The Change of Address Form requested a change of address to the address associated with Customer Number 20872. The address associated with Customer Number 20872 is:

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482
UNITED STATES

2. Prior to submission of the Change of Address Form, the correspondence address of record was:

FASTH LAW OFFICES (ROLF FASTH)
26 PINECREST PLAZA, SUITE 2
SOUTHERN PINES, NC 28387-4301
UNITED STATES

3. The Notice of Allowance mailed July 2, 2010 (the “Notice of Allowance”), was addressed to the prior correspondence address. To Applicant’s knowledge, a copy of the Notice of Allowance was not mailed to the address associate with Customer Number 20872. A search of the records of the Applicant and the Applicant’s Representative, including a search of the physical file jacket maintained for this matter with Applicant’s Representative, indicates that the Notice of Allowance was not received.
4. Similarly, the Notice of Abandonment mailed October 19, 2010 (the “Notice of Abandonment”), was addressed to the prior correspondence address. To Applicant’s knowledge, a copy of the Notice of Abandonment was not mailed to the address associate with Customer Number 20872. A search of the records of the Applicant and the Applicant’s Representative, including a search of the physical file jacket maintained for this matter with Applicant’s Representative, indicates that the Notice of Abandonment was not received.

5. Neither the Notice of Allowance nor the Notice of Abandonment was forwarded to Applicant or Applicant's representative by Fasth Law Offices.
6. Applicant became aware of the Notice of Allowance and Notice of Abandonment for the first time on the evening of April 1, 2011, solely through a proactive review of the PAIRS record for the present matter. Prior to April 1, 2011, Applicant had no knowledge of the Notice of Allowance or the Notice of Abandonment.
7. Applicant's representative, Morrison & Foerster, employs the Inprotech docketing system created by CPA Global. More information on the Inprotech system is available at www.cpaglobal.com/software/inprotech.
8. All communications from the USPTO, whether physical mail or electronic mail, are routed to a dedicated patent docket department. Action items are then docketed on the Inprotech system for resolution. Applicant believes that the system is sufficiently reliable. Further, Applicant diligently employs the system to maintain a docket for patent matters, including the present matter.
9. Attached, as Exhibit A, is a true and exact copy of the Inprotech individual docket record for the present matter. The record includes, for example, the application number, the attorney docket number, the mail date of any action, and the due date for response of any action. No entry exists, or existed, for a Notice of Allowance mailed July 2, 2010. The last action due date shown in the docket was for a Statement of Substance of the Interview due on March 24, 2010. The last occurring action was a Request for Continuation mailed April 27, 2010.
10. Applicant's representative has reviewed its mail log for a period starting on July 2, 2010, to present for any communications received from the USPTO for the present matter, including an electronic search of the application number (10/596,862) and the attorney docket number (61656-2000800). No record of the Notice of Allowance or the Notice of Abandonment was found.

CONCLUSION

In view of the Statement of Facts, above, Applicant petitions the Director, under 37 CFR 1.181(a), for withdrawal of the holding of abandonment, noticed on October 19, 2010, on the basis that Applicant did not receive the original Notice of Allowance. *See Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971).

If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no.

616562000800. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: April 4, 2011

Respectfully submitted,

By /Brian B. Ho/
Brian B. Ho

Registration No.: 60,199
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
(415) 268-7624